IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21795 of 2004

Between:

1 Gugulothu Rajulu S/o.Panthulu
R/o.Sangungudi Tanda, Thungaturthy Mandal, Nalgonda District.
2 Dhanavath Sreenu S/o.Pandu
R/o.Visram Tanda H/o.Matoor, Mandal Tripuraram Nalgonda District.

..... PETITIONERS

AND

1 The Superintendent of Police, Nalgonda, Nalgonda District.
2 The Station House Officer II Town, P.S.
Nalgonda, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent No.2 in detaining the petitioners and their family members from dawn to desk every day from 14.11.2004 onwards for interrrogation and threatening them to produce Bhoota Singh and Shivarani as illegal arbitrary and contrary to law and violative of Art.21 of the constitution of India and consequently direct the respondents not to interfere with the life, liberty and activities of the petitioners and their family members.

Counsel for the Petitioner:MR.VENUGOPALA RAO PASNOORU

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following ORDER:

Petitioners complain that the respondents, in particular the second respondent, are detaining them in the police station on several occasions in the name of interrogation and requiring them to produce one Mr. Boota Singh and Shivarani. They allege that they are facing threat to their life and liberty in the hands of the respondents.

Heard learned counsel for the petitioners and learned Government Pleader for Home.

The petitioners contend that the second respondent has detained them and their family members on several occasions from 14.11.2004 onwards on the ground that their relation one Mr. Boota Singh had taken away or kidnapped one Shivarani. They have furnished the instances of their being detained in the police station and the various facts leading thereto.

The police officials are vested with the power to investigate into any complaint received by them or whenever they notice commission of a crime. Before any such investigation is undertaken, it is mandatory that a case must be registered accusing the persons of commission of offence under relevant provisions. Indiscriminate detention without effecting lawful arrest, by itself is unlawful and amounts to gross misuse of powers. Any kind of detention otherwise than in accordance with the provisions of the Code of Criminal Procedure constitutes violation of the fundamental rights of the citizens. Inasmuch as the complete record is not before this Court, at this stage it is difficult to record any finding

on the allegations of the petitioners. Whatever be the truth or otherwise of these allegations, there does not exist any justification on the part of the first respondent to detain the petitioners or other family members.

Hence, the writ petition is disposed of directing that the second respondent shall not detain or require the petitioners to attend the police station except in relation to the investigation into a case registered with them on the basis of a definite complaint. In the absence of such a registered case, the second respondent shall not be entitled to summon or otherwise detain the petitioners. There shall be no order as to costs.

01.12.2004

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To

1 The Superintendent of Police, Nalgonda, Nalgonda District.
2 The Station House Officer II Town, P.S.
Nalgonda, Nalgonda District.

3 Two CCs. to the G.P. for Home, High Court of A.P.,

Hyderabad(OUT)

4 Two CD copies.